

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Social Welfare Department – Appeal petition filed by Smt. Giddi Sophyamma W/o. Rambabu against the Proceedings of the District Collector, East Godavari under section 7(2) of The Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (AP Act No. 16/1993) – **Appeal Disallowed** – Orders issued.

SOCIAL WELFARE (CV.1) DEPARTMENT

G.O.MS.No. 106

Dated: 22.12.2015

Read the following:

1. Proceedings of the District Collector, East Godavari No.C5/409/2014, Dated: 13.05.2015
2. Appeal petition of Smt. Giddi Sophyamma W/o. Rambabu, Dated: 01.06.2015
3. Government Memo No.4292/CV.1/2015, Dated: 08.09.2015
4. Government Memo No.4292/CV.1/2015, Dated: 23.09.2015.
5. Government Memo No.4292/CV.1/2015, Dated: 19.10.2015.
6. Government Memo No.4292/CV.1/2015, Dated: 06.11.2015

ORDER:

1. Vide reference 1st read above, the District Collector, East Godavari has cancelled the Scheduled Caste 'Mala' Certificate of Smt. Giddi Sophyamma W/o. Rambabu, East Godavari District.

2. In the reference 2nd read above, Smt. Giddi Sophyamma has filed an appeal petition before the Government u/s 7 (2) of Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act (Act No. 16 of 1993), against the cancellation of her Scheduled Caste Certificate by the District Collector, East Godavari and prayed for staying of all proceedings in pursuance of the said order of the District Collector, East Godavari.

3. The Government, after careful examination have admitted said appeal petition and requested the District Collector, East Godavari to furnish the parawise and connected records vide memo 3rd read above.

4. The appellant has filed WP No. 24737 of 2015 before the Hon'ble High Court of A.P for non-issuance of stay orders on the proceedings of the District Collector, East Godavari. The Hon'ble High Court have passed interim stay orders as prayed by the appellant.

5. The said Appeal Petition has been posted for hearing on 19.09.2015, 31.10.2015 and finally on 12.11.2015 and the same has been informed to the appellant/advocate to the appellant and requested to attend the hearings with all documentary evidence/certificates in favour of her community claim. The appellant/advocate to the appellant have attended for the hearing held on 12.11.2015 and explained the grounds of their SC 'Mala' community claim before the appellate authority.

6. The Government have examined the grounds filed by the appellant in her appeal petition/ parawise remarks submitted by the District Collector, East Godavari/ documentary evidence available with the Government, the documents filed by the counsel for appellant at the time of hearing. The appellant in her appeal petition stated that the District Level Scrutiny Committee headed by the Joint Collector, EG District as its Chairman did not properly enquired about her community claim and did not consider the applications/ objections filed by her. Further, the appellant has stated that the Joint Collector, East Godavari District in his capacity as the Chairman of the District Level Scrutiny committee ought to have held that she had married a scheduled caste person in the year 1997 and thereby having faced all the difficulties in the Scheduled caste, she becomes the member of Scheduled caste and thereby the caste certificate issued to her is perfectly valid under law.

[Contd..2]

7. Further, the appellant in her grounds has stated that the District Collector, EG District did not properly appreciate the legal citation reported “VALASAMMA PAL (Mrs) Vs Cochin University and others (1996) 3 SCC 545, in which the supreme court quoted as follows at paragraph 31: “.....either under the canon or the Hindu Law, on marriage, the wife becomes an integral part of husband’s marital home entitled to equal status of husband as a member of his family. Therefore, the lady, on marriage becomes the member of the family and thereby she becomes a member of the caste, to which, she moved. The caste rigidity breaks down and would stand no impediment to her becoming a member of the family to which the husband belongs and she get herself transplanted”.

8. Further it is observed that, the District Collector, East Godavari has issued proceedings cancelling the Scheduled Caste ‘Mala’ caste certificate of the appellant by considering the following findings of DLSC, East Godavari:

- a. The appellant does not belong to S.C. Community, that she is a native of Kerala State and belongs to Roman Catholic Caste, which is recognized as a forward caste in the State of Kerala.
- b. The appellant married a person who belongs to Mala Community; she has been residing in Udumudi(V) with her husband and Children.
- c. The appellant stated before the DLSC that she hails from Koodavichar (V) in Kottayam District of Kerala State; she belongs to Mala caste in Kerala State, she came down to Bhadrachalam in A.P. in the year 1992 on employment purpose; in the year 1993 she shifted to Udumudi(V) in P. Gannavaram Mandal where she got employment as a Teacher in private school, she married Sri Giddi Rambabu R/o Udumudi (V) who belongs to Mala Community.
- d. Further a statement was recorded from the Petitioner (Sri Nookapeyyi Suputhrudu) wherein he has stated that Smt. G. Sophyamma has claimed her caste wrongly; and that she did not belong to SC and came down to Udumudi (V) from Kerala State, she belongs to Roman Catholic Christian Caste, her religion is Christian, but she is wrongly claiming to be belonging to mala Caste. He filed the following documents, in original in support of his contentions.
 - i. Community certificate No.VKM6276/2013, dt.24.12.2013 issued by the Tahsildar, Vaikom under his Ref.C3-8842/2013 shows that Ms.Sopheyyamma, K.S., D/o Sebastian, Vechoor Village in Vaikom Taluk, Kottayam District belongs to Roman Catholic Caste, which is recognized as a forward caste in the State of Kerala and Christian
 - ii. As per information given by headmistress, Government DVHSS, Vechoor, under RTI Act, on 26.09.2013 to Bijju, P. Kottaparambil, Kottayam, Sopheyamma, K.S., belongs to “Others” category in regard to caste viz., SC/ST, OBC, Others.
 - iii. As per information given by Headmistress, Government DVHSS, Vechoor, under RTI Act, on 07.10.2013 to Bijju, P. Kottaparambil, Kottaya,, Religion of Sopheyamma to Roman Catholic Christian and she belongs to General Category.
 - iv. Attested true copy of Transfer certificate No. 42/84 (Admn.No.6497), issued by Head Mistress, Government DVHSS, Vechoor, on 5-6-1984 shows a long line drawn with no remarks against column, “Whether the candidate belongs to SC or ST or OBC or whether she is a convert from the SC or ST”.
- e. The DLSC came to a conclusion basing on the reports of the RDO and from the documents filed by the petitioner that the appellant belongs to Roman Catholic caste, which is recognized as a forward caste in the State of Kerala.

9. Further, it is observed that the appellant married a person belonging to SC “Mala” community and she is elected as Sarpanch of a village reserved for SC (Women) category in the Panchayat elections held on 31.07.2013. The appellant states that she belongs to SC “Mala” Community originally but she did not place any evidence to that

effect. On the other hand the record placed before the Government shows that the appellant who is daughter of Sebastian belongs to Roman Catholic Caste in Kerala which is a forward caste there. As verified from the documents produced by Sri Nookapeyyi Suputhrudu (1st respondent in the appeal petition), it is clear that the appellant belongs to Roman Catholic Caste, which is a forward caste in Kerala State. But, she having come to Udumudi (V) in P. Gannavaram Mandal married a person namely Rambabu who belongs to SC "Mala" Community. By non-production of the above documents and concealing the facts, she has obtained SC "Mala" Community Certificate on 10.06.2010 from the Tahsildar, P. Gannavaram.

10. The counsel for the appellant contends that she becomes a person of SC "Mala" Community at least having regard to her marriage with a person of Mala community. In support of the said contention he places reliance on two judgments rendered by Hon'ble Supreme Court 1). (1996)3 Supreme Court Caste 545 (Before K. Ramaswamy and B.L. Hansraia, JJ) in Civil Appeals Nos. 3163-3164 of 1995 and also another judgment Civil Appeal No.7065 of 2008. The Hon'ble Supreme Court has held in several decisions that either by marriage or by adoption of a person the caste of him/her cannot be changed.

11. In so far as the judgment rendered by Hon'ble Supreme Court in Civil Appeal No.7065 of 2008 in K.P. Manu Vs Chairman, Scrutiny Committee for Verification of Community Certificate, the Government is of opinion that the principle evolved in the said judgment is that the person if belongs to SC Community and if embraces Christianity later and if there has been again reconversion to her original religion i.e., by coming back to the stream of his/her original caste on acceptance by the community, he/she becomes a person of his/her original caste, before conversion. But however they have to prove that after such re-conversion they have been following the Hindu Rites and Customs that are meant for the caste.

12. In the present case the appellant and her parents originally belong to Roman Catholic Caste, which is a forward caste in Kerala State and the evidence placed before the primary authority reveals that the appellant is basically a Roman Catholic but not of SC "Mala" Community. Therefore, under the said judgment, the appellant cannot take shelter, as it deals with a case where a person of SC community converting into Christianity will re-convert back into his/her original religion following rites and customs of his/her original community. As such the said judgment is not applicable to the case on hand.

13. As per Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993(Act No.16 of 1993) the burden of proving that the appellant belongs to particular caste/Tribe/Class shall be on the claimant. It is the responsibility of the applicant to produce necessary evidence/ documents while applying in Form-I/II to the Competent Authority and also as called for by the Competent Authority/ Scrutiny and Review Committee at the State level/ District Collector/ Scrutiny Committees at the district level/ Government, from time to time, while enquiring into the claims for the issue of Community, Nativity and Date of Birth Certificate. No material is placed by the appellant either to show that she or her parents belong to SC Mala community or to show that her certificates reflecting her caste as Roman Catholic (Forward Caste) are false.

14. Government have also examined the community claim of the appellant as per the Rules/Guidelines framed by Government of India in Circular No. 35/1/72-R.U. (SCT.V) dated: 2nd May 1975 on issuance of Community Certificates and adopted by the State Government vide Circular Memo.No.10956/CV.1/1997-2, dated: 16-02-1998 :

- (i) In Cases of Migration Where a person migrates from one state to another, he can claim to belong to Scheduled Caste or a Scheduled Tribe only in relation to the State to which he originally belonged and not in respect of the State to which he has migrated.
- (ii) In Claims through marriage the guiding principle is that no person who was not a Scheduled Caste or a Scheduled Tribe by birth will be deemed to be a

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member of a Scheduled Caste or a Scheduled Tribe merely because he or she had married a person belonging to a Scheduled Caste or a Scheduled Tribe.

- (iii) In cases of conversion and reconversion where a Scheduled Caste person get converted to religion other than Hinduism or Sikhism, he will be deemed to have reverted to his original Scheduled Caste, if he is accepted by the members of that particular caste as one among them.

In the present case as the appellant hails from Kerala State, she cannot claim SC(Mala) Community certificate in A.P. State on migration basis. Further, she cannot claim SC (Mala) Certificate through marriage with a SC person. Further, the School records reflect that the appellant belong to Roman Catholic community but no material is placed by the appellant to show that she has taken reconversion into Hinduism.

15. The Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993),decide that the appeal petition filed by Smt. Giddi Sophyamma does not deserve any consideration and is accordingly dismissed. Hence, Proceedings of the District Collector, East Godavari issued vide No.C5/409/2014, Dt: 13.05.2015,is hereby upheld and the Appeal Petition filed by Smt. Giddi Sophyamma W/o. Rambabu is hereby dismissed and the SC Certificate issued to her by the Tahsildar, P. Gannavaram Mandal is deemed to be cancelled.

16. The District Collector, East Godavari shall take necessary action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**Dr. VIJAY KUMAR
PRINCIPAL SECRETARY TO GOVERNMENT**

To
The Collector & District Magistrate, East Godavari

Smt. Giddi Sophyamma,
W/o Rambabu, D.No.3-179,
Udimudi Village, P. Gannavaram (M),
East Godavari District, AP.

V.R. Sasidhar, Advocate, Tanuku,
West Godavari District.

Sri Nookapeyyi Suputhudu,
S/o. Naganna, D.No. 4-186, Pedapeta,
Udimudi Village, P. Gannavaram (M),
East Godavari District, AP.

Copy to:

P.S. to Hon'ble Minster(SWE&TWE)
P.S. to Principal Secretary (SW)
SF/SC.

// FORWARDED:: BY ORDER //

SECTION OFFICER